IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.1158 of 2010

The Director of Income Tax
Exemption, Chennai.
.... Appellant

-vs-

M/s.Merit International Education
Foundation (Regd.),
No.1997, 13th Main Road,
Anna Nagar, Chennai-40. ...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai "D" Bench, dated 04.06.2010 in I.T.A.No.335/Mds/2010, for the assessment year 2004-05 against the order of the Director of Income Tax (Exemption) Chennai dated 27.03.2009 made in F.No.DIT(E) 263(2)/07-08.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

For Respondent : No Appearance

JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal, by the appellant/Revenue, is directed against the order of the Income Tax Appellate Tribunal Chennai "D" Bench, dated 04.06.2010 in I.T.A.No.335/Mds/2010, for the assessment year 2004-05.

2.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the Revenue.

3.The above appeal has been admitted on 21.12.2010, on the following substantial questions of law:-

"(i) Whether on the facts and circumstances of the case, the Tribunal was right in not deciding the issue of granting exemption without satisfying the conditions of Section 13 and 11 of I.T.Act?

(ii) Whether on the facts and circumstances of the case, the Tribunal was right in not considering that the funds of the Trust was enjoyed by the Trustees through the company in violation of Section 13 of I.T.Act?"

4.We have perused the order of assessment as well as the order passed by the Commissioner of Income Tax and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue this appeal in view of the low tax effect. Hence, this appeal is dismissed and the substantial questions of law, framed for consideration, are left open. The Revenue is at liberty to seek for restoration of appeal if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular. No costs.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

abr

To

1.The Income Tax Appellate Tribunal Chennai "D" Bench.

2. The Director of Income Tax (Exemption)
Chennai.

T.C.A.No.1158 of 2010

GP(CO)
SP(19/12/2018)